

House Amendment 8423

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1 1 Amend Senate File 2219, as passed by the Senate, as
1 2 follows:
1 3 #1. Page 1, by inserting before line 1 the
1 4 following:
1 5 <Section 1. Section 16.181, Code 2005, is amended
1 6 by adding the following new subsection:
1 7 NEW SUBSECTION. 3A. Funds allocated from the
1 8 housing trust fund shall not be used for the provision
1 9 of rental housing for persons who are not lawfully
1 10 present in the United States. This subsection does
1 11 not apply to funds allocated to homeless shelters.>
1 12 #2. Page 1, by inserting after line 7 the
1 13 following:
1 14 <Sec. _____. NEW SECTION. 91F.1 DEFINITIONS.
1 15 As used in this chapter:
1 16 1. "Commissioner" means the labor commissioner.
1 17 2. "Employee" means a natural person who is
1 18 employed in this state for wages paid on an hourly
1 19 basis by an employer.
1 20 3. "Employer" means a person, as defined in
1 21 section 4.1, who in this state employs for wages, paid
1 22 on an hourly basis, one or more natural persons. An
1 23 employer does not include a client, patient, customer,
1 24 or other person who obtains professional services from
1 25 a licensed person who provides the services on a fee
1 26 service basis or as an independent contractor, or the
1 27 state, or an agency or governmental subdivision of the
1 28 state.
1 29 4. "Unauthorized alien" means a person who is not
1 30 lawfully present in the United States.
1 31 Sec. _____. NEW SECTION. 91F.2 UNAUTHORIZED ALIENS
1 32 == EMPLOYER PROHIBITION.
1 33 An employer shall not knowingly employ as an
1 34 employee an unauthorized alien. For purposes of this
1 35 section, "knowingly employ as an employee an
1 36 unauthorized alien" means an employer has actual
1 37 knowledge that a person is an unauthorized alien and
1 38 employs the person as an employee. An employer who
1 39 obtains a verification of employment eligibility form
1 40 required by the federal Immigration Reform and Control
1 41 Act of 1986, 8 U.S.C. } 1324a, shall not be considered
1 42 in violation of this chapter.
1 43 Sec. _____. NEW SECTION. 91F.3 PENALTIES.
1 44 1. An employer who violates section 91F.2 is
1 45 subject to a civil penalty of up to one thousand
1 46 dollars.
1 47 2. A corporate officer of an employer who, by
1 48 knowingly directing the repeated violation of section
1 49 91F.2, demonstrates a pattern of employing
1 50 unauthorized aliens commits a serious misdemeanor.
2 1 3. An employer who, through repeated violation of
2 2 section 91F.2, demonstrates a pattern of employing
2 3 unauthorized aliens may be ordered to pay punitive
2 4 damages.
2 5 Sec. _____. NEW SECTION. 91F.4 DUTIES AND
2 6 AUTHORITY OF THE COMMISSIONER == ENFORCEMENT BY
2 7 ATTORNEY GENERAL.
2 8 1. The commissioner shall adopt rules to implement
2 9 and enforce this chapter.
2 10 2. In order to carry out the purposes of this
2 11 chapter, the commissioner or the commissioner's
2 12 representative, upon presenting appropriate
2 13 credentials to an employer's owner, operator, or agent
2 14 in charge, may:
2 15 a. Inspect employment records relating to the
2 16 employees of the employer.
2 17 b. Interview an employer, owner, operator, agent,
2 18 or employee, during working hours or at other
2 19 reasonable times.
2 20 3. If the commissioner has reason to believe than
2 21 an employer may be in violation of this chapter, the
2 22 commissioner shall notify the attorney general, and
2 23 provide the attorney general with any supporting
2 24 information, for prosecution of the violation by the

2 25 attorney general.
2 26 Sec. _____. NEW SECTION. 91F.5 PROHIBITIONS
2 27 RELATING TO CERTAIN ACTIONS BY EMPLOYEES == PENALTY ==
2 28 CIVIL REMEDY.
2 29 1. An employer shall not discharge an employee or
2 30 take or fail to take action regarding an employee's
2 31 appointment or proposed appointment or promotion or
2 32 proposed promotion, or regarding any advantage of an
2 33 employee as a reprisal for a failure by that employee
2 34 to inform the employer that the employee made a
2 35 disclosure of information to any law enforcement
2 36 agency if the employee reasonably believes the
2 37 information evidences a violation of section 91F.2.
2 38 2. Subsection 1 does not apply if the disclosure
2 39 of the information is prohibited by statute.
2 40 3. An employer who violates subsection 1 commits a
2 41 simple misdemeanor.
2 42 4. Subsection 1 may be enforced through a civil
2 43 action.
2 44 a. An employer who violates subsection 1 is liable
2 45 to an aggrieved employee for affirmative relief,
2 46 including reinstatement, with or without back pay, or
2 47 any other equitable relief the court deems
2 48 appropriate, including attorney fees and costs.
2 49 b. If an employer commits, is committing, or
2 50 proposes to commit an act in violation of subsection
3 1 1, an injunction may be granted through an action in
3 2 district court to prohibit the person from continuing
3 3 such acts. The action for injunctive relief may be
3 4 brought by an aggrieved employee or the attorney
3 5 general.
3 6 5. An employer shall not discharge an employee or
3 7 take or fail to take action regarding an employee's
3 8 appointment or proposed appointment or promotion or
3 9 proposed promotion, or regarding any advantage of an
3 10 employee, or make a report regarding the status of the
3 11 employee as an unauthorized alien to any federal
3 12 department or agency as a reprisal against an employee
3 13 that made a report to a law enforcement agency that
3 14 the employee has been a victim of sexual abuse or
3 15 sexual harassment by another employee of the employer.
3 16 A law enforcement agency that accepts a report of
3 17 sexual abuse or sexual harassment as described in this
3 18 subsection shall not make a report regarding the
3 19 status of the victim as an unauthorized alien to any
3 20 federal department or agency.
3 21 Sec. _____. NEW SECTION. 535B.11A MORTGAGES TO
3 22 PERSONS UNLAWFULLY PRESENT.
3 23 A licensee or other mortgagee shall not knowingly
3 24 originate a first mortgage loan for residential real
3 25 estate located in this state on or after July 1, 2007,
3 26 that is intended to be used as a primary residence in
3 27 this state of a person who is not lawfully present in
3 28 the United States. The enforcement provisions of
3 29 section 535B.13 shall not apply to a violation under
3 30 this section. The attorney general may file an action
3 31 for injunctive relief against a licensee or other
3 32 mortgagee who violates this section. A licensee or
3 33 other mortgagee who complies with the customer
3 34 identification program requirements under 31 U.S.C. }
3 35 5318(l) shall not be considered in violation of this
3 36 section.
3 37 If a person who has agreed to buy residential real
3 38 property is denied a first mortgage loan pursuant to
3 39 this section and cannot otherwise comply with the
3 40 terms of the agreement, the seller of the property
3 41 shall be entitled to any earnest money or other trust
3 42 funds held by a real estate broker pursuant to section
3 43 543B.46 paid by the person or on behalf of the person
3 44 pursuant to the agreement.>
3 45 #3. Title page, line 1, by inserting after the
3 46 word <to> the following: <the labor and housing of
3 47 persons including>.
3 48 #4. Title page, line 2, by striking the word
3 49 <including> and inserting the following: <the
3 50 employment of unauthorized aliens, the allocation of
4 1 housing trust fund moneys and first mortgages for
4 2 unauthorized aliens,>.
4 3 #5. By renumbering as necessary.
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